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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/758,832	01/11/2001	Joseph A. Horton	MCRVT-023C	8538

7590 10/08/2002

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EXAMINER

THALER, MICHAEL H

ART UNIT

PAPER NUMBER

3731

DATE MAILED: 10/08/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.
09/758,832

Applicant(s)
Horton et al.

Examiner
Michael Thaler

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3731



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Sep 24, 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 102, 103, 105-110, 112-120, 122-125, and 127-130 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 102, 103, 105-110, 112-120, 122-125, and 127-130 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). 12 6) ☐ Other: _____

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Claims 102, 103, 105-110 and 112-118 are rejected under 35 U.S.C. 103(a) as being unpatentable over Turjman ("Combined Stent Implantation and Endosaccular Coil Placement for Treatment of Experimental Wide-Necked Aneurysms: A Feasibility Study in Swine") in view of Balko et al. (4,512,338). Turjman et al. disclose an intravascular member (the stent) and an embolus member, the intravascular member used to prevent the embolus member from escaping from an aneurysm as indicated near the bottom of the first column of the last page. Turjman et al. fail to disclose that the stent is in the form of an elongate strand member in the collapsed configuration. However, Balko et al. teach that a stent should be so configured (figures 6-8) with the apparent advantage of enabling the narrow elongate strand 24 or 24a along with the narrow sheath 36 to be easily passed through the narrow vasculature. So forming the Turjman et al. stent so that it too would enjoy this advantage would have been obvious. As to claims 106-107, note the inner and outer layers described in col. 6, lines 2-7 of Balko et al. As to claim 113, Turjman et al. teach advancing the embolus delivery catheter through the intravascular member into the vessel wall defect, as indicated under the heading "Methods" on page 1087.

Claims 119, 120, 122-125 and 127-130 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Balko et al. (4,512,338). Balko et al. show a biocompatible member 24 or 24a that is initially

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disposable in a collapsed substantially linear configuration and is transitionable to an expanded configuration (figures 6-8) and which inherently modifies blood flow since it restricts blood from entering the defect (the aneurysm). Alternatively, the Balko et al. member 24 or 24a obviously modifies blood flow since it restricts blood from entering the aneurysm.

Applicant's arguments with respect to claims 102, 103, 105-110, 112-120, 122-125 and 127-130 have been considered but are moot in view of the new ground(s) of rejection.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Thaler whose telephone number is (703) 308-2981. The examiner can normally be reached Monday to Friday.

mht
October 2, 2002
FAX (703) 305-3590



MICHAEL THALER
PRIMARY EXAMINER
ART UNIT 3731